

Rockfish Program
Summary of changes from Proposed to Final Rule

Changes to definitions (§ 679.2)

- Adopted a new term “cooperative quota (CQ),” to replace the term “cooperative fishing quota (CQ)” to reduce confusion with an acronym used by the Council in the GOA rationalization program under development.
- Clarified the definitions of a “Rockfish entry level harvester,” “Rockfish entry level processor,” “Rockfish limited access fishery,” and “Ten percent or greater direct or indirect ownership interest for purposes of the Rockfish Program.”
- Clarified the definition of “Rockfish Program fishery” to specifically describe the fisheries that are managed under the Program, specifically, rockfish cooperatives, rockfish limited access fisheries, opt-out fishery, and the entry level fisheries.
- Added the terms “aggregate forage fish,” “skates,” and “other rockfish” to the group of species defined under “Non-allocated secondary species.”

Changes to permits (§ 679.4)

- Clarified that a CQ permit assigned to a rockfish cooperative is valid until all CQ for all species is fully used, transferred, or until November 15,
- Once NMFS has approved a rockfish cooperative’s termination of fishing declaration, any unused halibut PSC remaining on the CQ permit is reapportioned to the last seasonal apportionment for trawl gear.

Changes to Recordkeeping and Reporting (§ 679.5)

- Clarified that only vessels fishing under a CQ permit must submit a rockfish cooperative catch report requirement.
- Deleted a reference to a process for amending a CQ permit to select vessels that are eligible to fish under the CQ permit.
- Established a more flexible rockfish reporting system that allows a cooperative’s designated representative to determine how and when vessels will fish under a CQ permit. Authorized cooperative representatives could “check-in” a vessel 48 hours prior to a fishing trip, and “check-out” vessels no longer fishing under the CQ permit at the end of a trip or offload. A trip is the end of a weekend date for catcher/processors. A check-out must be submitted within 6 hours of the end of a trip or offload. For administrative efficiency, NMFS will constrain the number of times a vessel may check-in and check-out to three times the number of LLP licenses assigned to that cooperative (e.g., 5 LLPs in the cooperative = 15 check-ins

and 15 check-outs).

Changes to prohibitions (§ 679.7)

- Clarified that an eligible rockfish harvester cannot assign their LLP license to more than one rockfish fishery in a year.
- Clarified that an eligible rockfish harvester or processor is prohibited from participating in the entry level fishery.
- Clarified that vessels fishing for a rockfish cooperatives, rockfish limited access fisheries, and the opt-out fishery must meet the applicable monitoring and enforcement standards for that fishery even if not named on an LLP assigned QS.
- Inserted a new prohibition that prohibits a vessel from being used in more than one Program fishery (i.e., limited access fishery or rockfish cooperative) in a calendar year. This change mirrors existing requirements that apply to LLP licenses.
- Detailed the prohibitions that apply for monitoring provisions in the opt-out fishery.
- Established a prohibition preventing vessels from fishing under a CQ permit unless checked in by a rockfish cooperative's designated representative.
- Deleted the prohibition requiring retention of groundfish harvested while fishing under a sideboard limit.
- Deleted prohibitions applicable to rockfish observer coverage and the catch monitoring control plan (CMCP) for rockfish entry level processors,
- Deleted the prohibition on having primary rockfish species harvested under a CQ permit and rockfish incidentally retained in non-Program vessels aboard a catcher/processor vessel at the same time.

Changes to prohibited species bycatch management (§ 679.21)

- Inserted provisions to allow the reapportionment of halibut PSC CQ that is unused by rockfish cooperatives to the trawl sector after rockfish cooperatives have submitted a termination of fishing declaration (see (§ 679.21).

Changes to equipment and operational requirements (§ 679.28)

- Clarified that entry level processors are not required to have a CMCP.
- Added provisions to allow observer sampling station, bin monitoring, and scale inspections in Kodiak, Alaska, in addition to Dutch Harbor, Alaska, and in the Puget Sound area of Washington State.

Changes to observer program regulations (§ 679.50)

- Reduced observer coverage requirements for catcher/processor vessels fishing in the opt-out

fishery from 200% coverage to 100% coverage in the month of July.

- Clarified that observer coverage required under the Program does not affect processor facility observer coverage requirements in other non-Program groundfish fisheries. However, non-rockfish deliveries made when a rockfish observer present would be counted toward non-Program coverage requirements for the month.

Changes to initial allocation of rockfish QS (§ 679.80)

- Clarified that an LLP license is eligible to be assigned Rockfish QS only if at least one landing was made during the primary rockfish species qualifying periods in which rockfish were targeted (i.e., primary rockfish species were the predominant groundfish catch).
- Clarified that secondary species and halibut PSC is assigned to the catcher/processor or catcher vessel sector based on harvests or halibut PSC use attributed to specific landings in which primary rockfish species were targeted.
- Clarified that an onshore processing facility must be closed (no Federal Processing Permit has been issued to that facility) before the processing history associated with that facility may be transferred.
- Made minor technical and typographic clarifications in the formula for determining a legal rockfish landing.
- Extended the due date for applying for the Program from December 1, 2006 to January 2, 2007.

Changes to rockfish program annual harvester and processor privileges—CQ (§ 679.81)

- Clarified algorithms describing the allocation of TAC for secondary species and halibut PSC between the catcher vessel and catcher/processor sectors to be consistent with regulatory text.
- Clarified that secondary species and halibut PSC are allocated based on the amount of secondary species retained or halibut PSC used when rockfish were targeted.
- Corrected algorithms to allocate secondary species and halibut PSC to the catcher/processor sector to ensure that rockfish QS assigned to the opt-out fishery is not included in the denominator.
- Removed a reference to a use cap for halibut PSC CQ.
- Extended the due date for the application to join a rockfish cooperative, limited access fishery, or opt-out fishery from December 1 of the year prior to fishing to March 1 of the year in which fishing occurs.
- Clarified that CQ inter-cooperative transfers must be approved by the eligible rockfish processor with whom that rockfish cooperative is associated.

- Clarified that if a catcher/processor LLP has legal landings assigned to it that were delivered onshore, that LLP license could be used in the catcher vessel sector.
- Made several clarifications on the process of forming a rockfish cooperative, specifically to requirements establishing the amount of Rockfish QS that must be assigned to a rockfish cooperative before it can form. NMFS specified the associations that can form between eligible rockfish harvesters and processors.
- Deleted provisions concerning the transfer of processor eligibility as inconsistent with the Council motion.
- Deleted requirements on providing corporate ownership information on inter-cooperative CQ transfer forms.
- Deleted provisions requiring modification of the CQ permit to add or delete the vessels fishing under that permit.
- Clarified that the amount of CQ assigned to a person is equal to the amount of CQ derived from QS held by that person, and all CQ assigned to that person by approved intercooperative transfers.

Changes to rockfish program use caps and sideboard limits (§ 679.82)

- Clarified the calculation of use caps applicable to catcher vessel cooperatives and eligible rockfish processors so that the use cap “grandfathers” cooperatives if the sum of the QS of the members that are eligible to join that cooperative are “grandfathered” in above the use cap.
- Clarified that a transfer of CQ will not be approved unless the cooperative member who is assigned that CQ is eligible to receive that CQ and remain under the use cap.
- Clarified that specific flatfish fisheries are subject to directed fishing closure once a sideboard limit is reached.
- Inserted the BSAI Pacific cod sideboard limit that applies to the catcher vessel sector in a table with other sideboard limited species and deleted redundant text.
- Established the halibut PSC sideboard limit as a use cap applying to the entire GOA, not to specific management areas in the GOA.
- Clarified the method for calculating the amount of groundfish and halibut PSC sideboard limits that are attributed to specific LLPs and vessels in the catcher/processor sector opt-out fishery so that it is clear it is based on catch and halibut PSC usage by those LLPs and vessels and not based on their QS allocation.
- Clarified that catcher/processor vessels that are designated for a rockfish cooperative,

rockfish limited access fishery, or opt-out fishery are subject to the sideboard limits that apply to those fisheries.

Changes to rockfish program entry level fishery (§ 679.83)

- Addressed in comments pertaining to prohibitions and monitoring and enforcement.

Changes to rockfish program monitoring and enforcement (§ 679.84)

- Modified the specific catch monitoring requirements that apply to catcher/processor vessels assigned to the opt-out fishery. Specifically, NMFS relieved requirements for scales and an observer sampling station.
- Clarified that groundfish harvested or halibut PSC used under a CQ permit is not debited against groundfish or halibut PSC sideboard limits in July.
- Clarified that fish accidentally spilled from the codend must be moved to the fish bin. This clarification ensures that an observer is provided an opportunity to sample all catch that is aboard a vessel.
- Clarified that catcher/processor vessels assigned to the opt-out fishery must arrange for inspection of their bin monitoring option. Each option must be inspected and approved by NMFS annually and prior to its use for the first time.

Tables

- In Table 28 to part 679, NMFS corrected the closure date for primary rockfish species in 1999.
- In Table 29 to part 679, NMFS changed the date that is used to establish the amount of the initial Rockfish QS pool assigned to the catcher/processor and catcher vessel from December 31, 2006, to January 31, 2007.
- In Table 30 to part 679, NMFS corrected typographic errors in the maximum retainable amount (MRA) percentages for other species, clarified the rockfish fisheries to which the MRA percentages in this table apply, and added an MRA for thornyhead rockfish in the rockfish limited access fishery.

Small Entity Compliance Guide: NMFS has provided this small entity compliance guide to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. This synopsis provides a general overview as a public service. For exact regulatory language, please refer to the final rule at www.fakr.noaa.gov.